

Message Text

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ACTION SNM-05

INFO OCT-01 ARA-14 ISO-00 L-03 PPTE-00 CA-01 DEAE-00
JUSE-00 /024 W
-----031001 221311Z /53
R 221030Z JUL 78
FM AMEMBASSY GEORGETOWN
TO SECSTATE WASHDC 7261
INFO AMEMBASSY CARACAS

UNCLAS SECTION 1 OF 2 GEORGETOWN 2357

CARACAS FOR DEA

E.O. 11652: N/A
TAGS: SNAR
SUBJECT: NARCOTICS LAWS

REF: STATE 170187

1. POSSESSION: THE BASIC LAW THAT CONTROLS THE USE AND POSSESSION OF NARCOTICS WAS INITIALLY PASSED ON JANUARY 1, 1938 AND HAS SINCE BEEN AMENDED UP THROUGH 1953. UNDER THIS LEGISLATION THERE IS NO DIFFERENTIATION MADE IN THE LAW FOR POSSESSION OF VARIOUS NARCOTICS, I.E. MARIJUANA, COCAINE, HEROIN, ETC. THE LAW DOES NOT DEAL WITH SYNTHETIC DRUGS LIKE AMPHETAMINES AND BARBITUATES. HOWEVER, THE LAW DOES CONTROL THE MANUFACTURE AND SALE OF DRUGS; THEREFORE, PRESUMABLY SYNTHETIC DRUGS WOULD BE INCLUDED IN THIS CATEGORY. THE BASIC PENALTIES FOR THE POSSESSION, USE AND EXPORT OR SMUGGLING OF DRUGS ARE ALL LUMPED TOGETHER AND DEPENDING UPON THE SEVERITY OF THE CHARGE, THE PERSON GUILTY OF AN OFFENSE WOULD BE LIABLE TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT FOR A PERIOD NOT EXCEEDING TEN YEARS, OR BOTH FINE AND IMPRISONMENT. FOR LESSER CHARGES PRESUMABLY OF POSSESSION OF SMALL AMOUNTS OF MARIJUANA, ETC., A GUILTY PERSON IS LIABLE TO A FINE NOT EXCEEDING \$2,000 OR IMPRISONMENT NOT EXCEEDING TWELVE

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MONTHS. IT HAS BEEN OUR EXPERIENCE THAT PENALTIES DO DIFFERENTIATE BETWEEN SMUGGLING AND POSSESSION AND THAT THE LAW IS SUFFICIENTLY FLEXIBLE TO PROVIDE FOR LESSER PENALTIES IN SOME CASES. HOWEVER, IT MUST BE EMPHASIZED THAT IT HAS ONLY BEEN RECENTLY THAT THE PHENOMENA OF DRUG TRAFFICKING AND USAGE PROBLEM OF MARIJUANA HAS SURFACED IN GUYANA AND AS SUCH THERE IS VERY LITTLE EXPERIENCE TO

DRAW UPON.

2. TRAFFICKING: THE LAW CONSOLIDATING ALL CONTROL SYSTEMS WOULD ALSO PERTAIN TO CONSPIRACY FOR TRAFFICKING. THE PENALTIES MENTIONED IN PARAGRAPH ONE COVERS OFFENSES IN THIS CATEGORY. MAXIMUM AND MINIMUM PENALTIES CAN BE IMPOSED AGAIN AS STATED ABOVE. BAIL IS DISCRETIONARY BASED UPON THE JUDGMENT OF THE MAGISTRATE WHO PRESIDES OVER THE HEARINGS AND THE RECOMMENDATION OF THE POLICE PROSECUTOR. THE LAW DOES NOT DIFFERENTIATE BETWEEN THE ASSOCIATION OF TRAFFICERS OR PRODUCERS AS OPPOSED TO ACTUAL TRAFFICKING. OUR REVIEW OF THE PERTINENT SECTIONS OF THE LAW DOES NOT INDICATE THAT ASSOCIATION OF TRAFFICKERS WOULD CONSTITUTE A CRIME. TRAFFICKING OFFENSES ARE DEALT WITH UNDER LAWS DEALING WITH SMUGGLING AND TRAFFICKING OF DRUGS. THERE ARE CRIMINAL OFFENSES RELATING TO TRAFFIC IMPORT OR EXPORT OF DANGEROUS DRUGS BUT THEY ARE NOT VERY SPECIFIC. THE LAW SIMPLY STATES THAT PERSONS CONVICTED OF TRAFFICKING WOULD FACE THE SAME PENALTIES AS OTHER OFFENSES FOR DANGEROUS DRUGS.

3. CULTIVATION AND PRODUCTION: CULTIVATION OF CANNABIS AND OTHER DANGEROUS DRUGS IS PROHIBITED BY LAW WITH PENALTIES THE SAME AS THOSE DESCRIBED IN PARAGRAPH ONE. THE CULTIVATION AND PRODUCTION OF RAW OPIUM, CANNABIS SATIVA, COCOA LEAVES ARE PROHIBITED. THE GOVERNMENT
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THROUGH THE COMPTROLLER OF CUSTOMS IS RESPONSIBLE FOR THE CONTROLLING OF THE IMPORT AND EXPORT OF ALL NARCOTICS AND NARCOTICS SUBSTANCES. PERMISSION MUST BE REQUESTED IN ADVANCE FOR THE IMPORTATION OF SUCH SUBSTANCES THROUGH THE PROPER CHANNELS AS DESCRIBED IN THE APPLICABLE SECTION OF THE LAW. THE LAW DOES SPECIFY THAT NO ONE IS PERMITTED TO MANUFACTURE NARCOTIC SUBSTANCES FROM COCOA LEAVES, OPIUM POPPIES OR CANNABIS.

4. FINANCIAL: THE PRESENT LAW AS DRAWN UP DOES NOT MENTION THE FINANCIAL ARRANGEMENTS RELATING TO CULTIVATING, PRODUCING OR TRAFFICKING IN NARCOTICS. HOWEVER, THE WORDING OF THE LAW IS SUFFICIENTLY BROAD TO PROVIDE LAW ENFORCEMENT OFFICIALS WITH THE AUTHORITY TO ARREST INDIVIDUALS WHO ARE INVOLVED IN SUCH ACTIVITY. GIVEN GUYANA'S SMALL DRUG PROBLEM, THOUGH, THERE IS NO REAL CONCERN FOR THIS ASPECT OF THE DRUG PROBLEM. NATURALLY, SHOULD AN UPSURGE IN THE SMUGGLING, POSSESSION AND USE OF NARCOTICS OCCUR, IT COULD GENERATE CONCERN BY THE LAW ENFORCEMENT OFFICIALS AND AGENCIES OF THE GOVERNMENT. THERE ARE VERY STRICT CURRENCY CONTROL LAWS RELATING TO FOREIGN BANK ACCOUNTS AND THE EXCHANGE OF FOREIGN CURRENCY IN GUYANA.

VIOLATION OF THESE LAWS ARE DEALT WITH VERY SEVERELY BY THE GOVERNMENT. AN INDIVIDUAL ARRESTED UNDER THIS CATEGORY COULD FACE MUCH HEAVIER PENALTIES THAN IF ARRESTED FOR SIMILAR VIOLATIONS OF THE NARCOTICS LAWS.

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ACTION SNM-05

INFO OCT-01 ARA-14 ISO-00 L-03 PPTE-00 CA-01 DEAE-00
JUSE-00 /024 W
-----031180 221311Z /41

R 221030Z JUL 78
FM AMEMBASSY GEORGETOWN
TO SECSTATE WASHDC 7262
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5. CRIMINAL PROCEDURES: THERE IS A PERIOD OF INVESTIGATION TIME RETENTION PERMITTED UNDER THE LAW OF UP TO 30 DAYS ALTHOUGH IN PRACTICE, HEARINGS ARE NORMALLY HELD WITHIN 24 HOURS OF AN ARREST AND THEN THEREAFTER ON A BI-WEEKLY SCHEDULE. CONSULAR ACCESS IS PERMITTED DURING THIS PERIOD. IN THE PAST FOUR YEARS ONLY TWO AMERICANS HAVE BEEN ARRESTED, NEITHER FOR NARCOTICS VIOLATIONS. IN BOTH CASES THE EMBASSY WAS PROMPTLY INFORMED OF THE ARREST AND CONSULAR OFFICERS WERE IMMEDIATELY GIVEN ACCESS. IN BOTH CASES THE PRE-TRIAL DETENTION WAS LESS THAN 30 DAYS AND THE TRIAL PROCESS TOOK ABOUT 2 WEEKS. IT IS DIFFICULT TO ESTIMATE THE USUAL LENGTH OF TRIALS, REVIEW AND CONFIRMATION PROCEEDINGS AND AN APPELLATE PROCESS AS THIS WOULD BE DETERMINED BY THE COMPLEXITY AND SEVERITY OF THE OFFENSE COMMITTED. BASICALLY, WE HAVE NOTED THAT DEFENDENTS HERE RECEIVE SPEEDY TRIALS WITH THE SENTENCE REVIEWED AND CONFIRMED WITHIN 30 DAYS. THE APPELLATE PROCESS COULD TAKE MUCH LONGER.

6. GUYANA HAS NO PUBLIC DEFENSE SYSTEM. THERE IS A LEGAL AID SOCIETY; HOWEVER, THIS WOULD NOT TAKE THE PLACE OF AN ACTUAL ATTORNEY REPRESENTING A CLIENT AT NO COST. THERE ARE ADEQUATE ATTORNEYS TO TAKE NARCOTICS CASES AND
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THEIR FEES WOULD RANGE FROM ABOUT US\$100 TO US\$2,000 DEPENDING ON THE LENGTH AND COMPLEXITY OF THE CASE. THERE IS NO PROVISION FOR PAROLE. THE ACCUSED IS EITHER FREED ON BAIL OR HELD ON PRE-TRIAL DETENTION UNTIL HIS CASE IS DECIDED.

7. THE ONLY NARCOTICS CASES INVOLVING FOREIGNERS (TRINIDADIAN) THAT WE ARE AWARE OF, THE ACCUSED WERE GIVEN A FINE AND THEN DEPORTED. HOWEVER, THEY HAD ONLY MARIJUANA IN THEIR POSSESSION AND NOT VERY MUCH AT THAT SO THERE IS A POSSIBILITY THAT HAD A SIGNIFICANT AMOUNT BEEN SEIZED THEY WOULD HAVE RECEIVED JAIL SENTENCES AND NO FINES.

8. HERETOFORE, GUYANA HAS NOT HAD A NARCOTICS PROBLEM. WITHIN THE PAST YEAR, THOUGH, THERE ARE REPORTS THAT NARCOTICS USAGE, I.E., POT SMOKING, IS BECOMING MORE PREVALENT AMONG GUYANESE IN THE AGE GROUP OF 18-30. A REPRESENTATIVE OF THE MINISTRY OF JUSTICE HAS REMARKED TO AN EMBASSY OFFICER THAT AFTER THE QUESTION OF CONSTITUTIONAL CHANGE IS RESOLVED THE GOVERNMENT WILL HAVE TO UPDATE THE PRESENT LAWS PERTAINING TO NARCOTICS VIOLATIONS AND USAGE IN GUYANA.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, DRUG CONTROL
Control Number: n/a
Copy: SINGLE
Draft Date: 22 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978GEORGE02357
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780302-0065
Format: TEL
From: GEORGETOWN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780730/aaaaazoc.tel
Line Count: 199
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: d7a58a6e-c288-dd11-92da-001cc4696bcc
Office: ACTION SNM
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 78 STATE 170187
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 21 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1918743
Secure: OPEN
Status: NATIVE
Subject: NARCOTICS LAWS
TAGS: SNAR, BB
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/d7a58a6e-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014